



6. Paragraph 6 of Bristol Preservation's Counterclaim is denied as stated. To the extent the allegations of Paragraph 5 seek to paraphrase or characterize the contents of the written Lease, the document speaks for itself and KOVA denies the allegations to the extent that they are inconsistent with that document.

7. Paragraph 7 of Bristol Preservation's Counterclaim is denied. Monthly Fixed Rent, Monthly Percentage Rent, and F&B Percentage Rent were abated pursuant to the terms of the Lease.

8. Paragraph 8 of Bristol Preservation's Counterclaim is denied. Monthly Fixed Rent, Monthly Percentage Rent, and F&B Percentage Rent were abated pursuant to the terms of the Lease.

9. Paragraph 9 of Bristol Preservation's Counterclaim is admitted.

10. Paragraph 10 of Bristol Preservation's Counterclaim is denied.

11. Paragraph 11 of Bristol Preservation's Counterclaim is admitted.

12. Paragraph 12 of Bristol Preservation's Counterclaim is denied.

13. Paragraph 13 of Bristol Preservation's Counterclaim is denied as stated. To the extent the allegations of Paragraph 13 seek to paraphrase or characterize the contents of the written Lease, the document speaks for itself and KOVA denies the allegations to the extent that they are inconsistent with that document.

14. Paragraph 14 of Bristol Preservation's Counterclaim is denied.

15. KOVA is without sufficient information to admit or deny the allegations of Paragraph 15 of Bristol Preservation's Counterclaim, and therefore the same is denied.

16. Paragraph 16 of Bristol Preservation's Counterclaim is admitted.

17. Paragraph 17 of Bristol Preservation's Counterclaim is denied.

18. Paragraph 18 of Bristol Preservation's Counterclaim is denied.
19. Paragraph 19 of Bristol Preservation's Counterclaim is admitted.
20. Paragraph 20 of Bristol Preservation's Counterclaim is denied.
21. Paragraph 21 of Bristol Preservation's Counterclaim is denied.
22. Paragraph 22 of Bristol Preservation's Counterclaim is admitted.
23. Paragraph 23 of Bristol Preservation's Counterclaim is denied.

#### **Counterclaim Count I – Breach of Contract**

24. KOVA adopts as its answer to Paragraph 24 of Bristol Preservation's Counterclaim the responses previously given to Paragraph 1 through 23 of the Counterclaim.

25. Paragraph 25 of Bristol Preservation's Counterclaim is admitted.
26. Paragraph 26 of Bristol Preservation's Counterclaim is denied.
27. Paragraph 27 of Bristol Preservation's Counterclaim is denied.
28. Paragraph 28 of Bristol Preservation's Counterclaim is denied.
29. Paragraph 29 of Bristol Preservation's Counterclaim is denied.
30. Paragraph 30 of Bristol Preservation's Counterclaim is denied.

#### **Counterclaim Count II – Breach of Duty of Good Faith and Fair Dealing**

31. KOVA adopts as its answer to Paragraph 31 of Bristol Preservation's Counterclaim the responses previously given to Paragraph 1 through 30 of the Counterclaim.

32. Paragraph 32 of Bristol Preservation's Counterclaim is admitted.
33. Paragraph 33 of Bristol Preservation's Counterclaim is admitted.
34. Paragraph 34 of Bristol Preservation's Counterclaim is denied.

- 35. Paragraph 35 of Bristol Preservation's Counterclaim is denied.
- 36. Paragraph 36 of Bristol Preservation's Counterclaim is denied.
- 37. Paragraph 37 of Bristol Preservation's Counterclaim is denied.

### **Counterclaim Count III – Ejectment or Unlawful Detainer**

38. KOVA adopts as its answer to Paragraph 38 of Bristol Preservation's Counterclaim the responses previously given to Paragraph 1 through 37 of the Counterclaim.

- 39. Paragraph 39 of Bristol Preservation's Counterclaim is denied.
- 40. Paragraph 40 of Bristol Preservation's Counterclaim is denied.

### **Counterclaim Count IV – Injunctive Relief**

41. KOVA adopts as its answer to Paragraph 41 of Bristol Preservation's Counterclaim the responses previously given to Paragraph 1 through 40 of the Counterclaim.

- 42. Paragraph 42 of Bristol Preservation's Counterclaim is admitted.
- 43. Paragraph 43 of Bristol Preservation's Counterclaim is denied as stated. To the extent the allegations of Paragraph 43 seek to paraphrase or characterize the contents of the written Lease, the document speaks for itself and KOVA denies the allegations to the extent that they are inconsistent with that document.

- 44. Paragraph 44 of Bristol Preservation's Counterclaim is denied.
- 45. Paragraph 45 of Bristol Preservation's Counterclaim is denied.
- 46. Paragraph 46 of Bristol Preservation's Counterclaim is denied.
- 47. Paragraph 47 of Bristol Preservation's Counterclaim is denied.

48. All allegations in Bristol Preservation's Counterclaim not herein expressly admitted or denied are hereby denied.

49. KOVA denies that Bristol Preservation has suffered any damage or incurred any cost or expenses due to any act or omission on KOVA's part.

### **Affirmative Defenses**

1. Bristol Preservation has failed to state a claim for which relief may be granted.
2. Bristol Preservation materially breached the Lease, and Bristol Preservation's material breaches of the Lease discharge KOVA's obligations under the Lease.
3. Bristol Preservation is estopped from recovery by virtue of the fraudulent misrepresentations made by its representatives in the course of dealing with KOVA.
4. Any claims of Bristol Preservations are barred by the doctrine of unclean hands.
5. Bristol Preservation waived its right to enforce any and all alleged material breaches of the Lease by its representations and actions.
6. Bristol Preservation's claims are barred based on Bristol Preservation's failure to mitigate its damages.
7. Bristol Preservation's claims are barred by KOVA's full performance of its obligations under the Lease.
8. Bristol Preservation's failure to give proper notice under the Lease bars Bristol Preservation's claims.
9. KOVA is entitled to an offset that is equal to or greater than any amounts claimed by Bristol Preservation.

**WHEREFORE**, Plaintiff KOVA Bristol TENN 1894, LLC denies the Defendant Bristol Preservation, LLC is entitled to any relief whatsoever and requests that Defendant's Counterclaim be dismissed in its entirety, with costs taxed to Defendant Bristol Preservation.

Respectfully submitted this 2nd day of July, 2019.

WISE & REEVES, PLLC

BY: /s/ Lindsey L. Hobbs

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing document has been served upon all parties of record by filing this document with the United States District Court's electronic filing system.

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This the 2nd day of July, 2019.

/s/ Lindsey L. Hobbs

Lindsey Lovingood Hobbs